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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,255	10/27/2003	Sjaak Schel	1316N-001689	2693

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EXAMINER

SY, MARIANO ONG

ART UNIT PAPER NUMBER

3683

DATE MAILED: 11/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/694,255

Applicant(s)

SCHEL, SJA AK

Examiner

Mariano Sy

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10272003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 14, 15, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Tabata (U.S. Patent Number 4,887,515).

Re-claims 1, 2, 4, 6, 9, and 14 Tabata disclosed, as shown in fig. 1, a damper comprising: a pressure tube 13a defining a working chamber; a piston 14 dividing said working chamber into a lower working chamber 28 and an upper working chamber 30; a piston rod 16 attached to said piston, said piston rod defining a cavity 40; a compensator 18 disposed within said cavity and sealingly 44 engaging said piston rod, said compensator being stationary with respect to said pressure tube; and a connecting rod 18a extending between said compensator and said pressure tube.

Re-claims 3 and 15 Tabata disclosed, as shown in fig. 1, wherein said pressure tube includes an end cap 13b, said connecting rod being attached to said end cap.

Re-claims 5 and 8 Tabata disclosed, as shown in fig. 1, wherein said piston rod defines a vent hole 38 extending between said cavity and an environment surrounding said damper.

Re-claim 7 Tabata disclosed, as shown in fig. 1, wherein said compensator is in communication with the other of said upper and lower working chambers.

Art Unit: 3683

Re-claim 20 Tabata disclosed, as shown in fig. 1, wherein said piston rod defines a vent hole 38 in communication with said cavity.

3. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by J.M. Hannan (U.S. Patent Number 3,273,876).

Re-claim 21 J.M. Hannan disclosed, as shown in fig. 1-2, a damper comprising: a pressure tube 9 defining a working chamber filled with a compressed fluid; a piston 8 disposed within said working chamber, said piston defining a piston surface area defined by the outer circumference of said piston, said piston dividing said working chamber into an upper working chamber and a lower working chamber filled with said compressed fluid; and a piston rod B attached to said piston, said piston rod extending through one of said upper or lower working chambers; wherein a surface area of said piston exposed to said compressed fluid in the other of said upper or lower working chambers is less than said piston surface area.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-12 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tabata in view of Yamaoka et al. (U.S. Patent Number 5,115,892).

Art Unit: 3683

Re-claims 10-12 and 16-18 Tabata failed to disclose a compression valve assembly and an extension valve assembly attached to said piston.

Yamaoka et al. teaches the use of a compression valve assembly and an extension valve assembly attached to piston 5 as shown in fig. 1.

It would have been obvious to one of ordinary skill in the art to have modify the piston of Tabata to include a compression valve assembly and an extension valve assembly attached to the piston, as taught by Yamaoka et al., in order to enhance variation characteristics of damping force.

6. Claims 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tabata in view of Yamaoka et al. as applied to claims 10 and 16 above, and further in view of Sugiura (U.S. Patent Number 3,784,179).

Re-claims 13 and 19 Tabata as modified failed to disclose wherein the flow path is an open flow path.

Sugiura teaches, as shown in fig. 1, an open flow path 15 extending through the piston.

It would have been obvious to one of ordinary skill in the art to have modify the piston of Tabata as modified with an open flow path extending through the piston, as taught by Sugiura, in order to produce a throttling effect so as to control the damping force.

Art Unit: 3683

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Axthammer (U.S. Patent Number 4,441,593),

Mills (U.S. Patent Number 4,786,037),

Rottenberger et al. (U.S. Patent Number 6,648,310 B2).

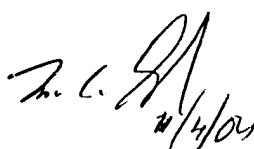
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 703-308-3427. The examiner can normally be reached on Mon.-Fri. from 9:00 A.M. to 3:00P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder, can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 M. SY

November 3, 2004

  
MATTHEW C. GRAHAM  
PRIMARY EXAMINER  
GROUP 310